

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 330 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 31-9-2-0.5 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 0.5. "Abandoned
- 5 infant", for purposes of IC 31-34-21-5.6, means:
- 6 (1) a child who is less than twelve (12) months of age and whose
- 7 parent, guardian, or custodian ~~(1)~~ has knowingly or intentionally
- 8 left the child in:
- 9 (A) an environment that endangers the child's life or health; or
- 10 (B) a hospital or medical facility;
- 11 **and has no reasonable plan to assume the care, custody, and**
- 12 **control of the child; or**
- 13 **(2) a child who is, or who appears to be, not more than thirty**
- 14 **(30) days of age and whose parent:**
- 15 **(A) has knowingly or intentionally left the child with an**
- 16 **emergency medical services provider; and ~~(2)~~ has no**
- 17 **reasonable plan to assume the care, custody, and control of**
- 18 **(B) did not express an intent to return for the child.**
- 19 SECTION 2. IC 31-9-2-43.5 IS ADDED TO THE INDIANA CODE
- 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 21 1, 2000]: **Sec. 43.5. "Emergency medical services provider" has the**
- 22 **meaning set forth in IC 16-41-10-1.**
- 23 SECTION 3. IC 31-34-2.5 IS ADDED TO THE INDIANA CODE

1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2000]:

3 **Chapter 2.5. Emergency Custody of Certain Abandoned**
4 **Children**

5 **Sec. 1. (a) An emergency medical services provider shall,**
6 **without a court order, take custody of a child who is, or who**
7 **appears to be, not more than thirty (30) days of age if:**

8 (1) **the child is voluntarily left with the provider by the child's**
9 **parent; and**

10 (2) **the parent does not express an intent to return for the**
11 **child.**

12 (b) **An emergency medical services provider who takes custody**
13 **of a child under this section shall perform any act necessary to**
14 **protect the child's physical health or safety.**

15 **Sec. 2. (a) Immediately after an emergency medical services**
16 **provider takes custody of a child under section 1 of this chapter,**
17 **the provider shall notify the local child protection service that the**
18 **provider has taken custody of the child.**

19 (b) **The local child protection service shall assume the care,**
20 **control, and custody of the child immediately after receiving notice**
21 **under subsection (a).**

22 **Sec. 3. A child for whom the local child protection service**
23 **assumes care, control, and custody under section 2 of this chapter**
24 **shall be treated as a child taken into custody without a court order,**
25 **except that efforts to locate the child's parents or reunify the**
26 **child's family are not necessary, if the court makes a finding to that**
27 **effect under IC 31-34-21-5.6(b)(5).**

28 **Sec. 4. Whenever a child is taken into custody without a court**
29 **order under this chapter, the attorney for the county office of**
30 **family and children shall, without unnecessary delay, request the**
31 **juvenile court to:**

32 (1) **authorize the filing of a petition alleging that the child is a**
33 **child in need of services;**

34 (2) **hold an initial hearing under IC 31-34-10 not later than**
35 **the next business day after the child is taken into custody; and**

36 (3) **appoint a guardian ad litem for the child.**

37 **SECTION 4. IC 31-34-10-2 IS AMENDED TO READ AS**
38 **FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The juvenile**
39 **court shall hold an initial hearing on each petition.**

40 (b) **Subject to section 2.5 of this chapter,** the juvenile court shall
41 set a time for the initial hearing. A summons shall be issued for the
42 following:

43 (1) The child.

44 (2) The child's parent, guardian, custodian, or guardian ad litem.

45 (3) Any other person necessary for the proceedings.

46 (c) A copy of the petition must accompany each summons. The
47 clerk shall issue the summons under Rule 4 of the Indiana Rules of

1 Trial Procedure.

2 SECTION 5. IC 31-34-10-2.5 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2000]: **Sec. 2.5. (a) The juvenile court shall**
5 **hold the initial hearing on a petition arising from an emergency**
6 **medical services provider's taking custody of an infant under**
7 **IC 31-34-2.5 on the next business day after the emergency medical**
8 **services provider takes the infant into custody. If the court is**
9 **unavailable for a hearing on the next business day, the hearing**
10 **must be held as soon as the court becomes available. However, the**
11 **hearing must be held not later than the third business day after the**
12 **infant is taken into custody.**

13 **(b) The county office of family and children shall notify the**
14 **emergency medical services provider who has taken emergency**
15 **custody of an abandoned infant under IC 31-34-2.5 of the initial**
16 **hearing. The emergency medical services provider has the right to**
17 **be heard at the initial hearing."**

18 Page 1, strike line 8.

19 Page 1, line 9, strike "(3)" and insert "(2)".

20 Page 2, line 6, strike "(4)" and insert "(3)".

21 Page 2, line 11, strike "(5)" and insert "(4)".

22 Page 2, between lines 12 and 13, begin a new line block indented
23 and insert:

24 **"(5) Any emergency medical services provider who has taken**
25 **custody of an abandoned infant under IC 31-34-2.5."**

26 Page 2, line 13, delete "The" and insert "**At least ten (10) days**
27 **before the periodic case review, including a case review that is a**
28 **permanency hearing under section 7 of this chapter, the"**.

29 Page 2, line 14, delete "persons listed in subsection (a)" and insert
30 "**child's foster parent"**.

31 Page 2, line 18, after "(a)" insert "**or (b)"**."

32 Page 2, line 23, after "(a)" insert "**or (b)"**."

33 Page 2, line 25, delete "subsection" and insert "**subsections"**."

34 Page 2, line 25, after "(a)" insert "**and (b)"**."

35 Page 2, line 32, delete "persons listed in" and insert "**child's foster**
36 **parent"**."

37 Page 2, line 33, delete "subsection (a)".

38 Page 2, line 33, delete "persons" and insert "**foster parent has"**."

39 Page 2, line 34, delete "have".

40 Page 2, line 36, delete "all the persons listed under subsection (a)
41 appear" and insert "**the child's foster parent appears"**."

42 Page 3, between lines 8 and 9, begin a new paragraph and insert:

43 "SECTION 6. IC 31-34-21-5.6, AS AMENDED BY P.L.197-1999,
44 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
45 JULY 1, 2000]: Sec. 5.6. (a) A court may make a finding described in
46 this section at any phase of a child in need of services proceeding.

1 (b) Reasonable efforts to reunify a child with the child's parent,
 2 guardian, or custodian or preserve a child's family as described in
 3 section 5.5 of this chapter are not required if the court finds any of the
 4 following:

5 (1) A parent, guardian, or custodian of a child who is a child in
 6 need of services has been convicted of:

7 (A) an offense described in IC 31-35-3-4(1)(B) or
 8 IC 31-35-3-4(1)(D) through ~~IC 31-35-3-4(J)~~

9 **IC 31-35-3-4(1)(J)** against a victim who is:

10 (i) a child described in IC 31-35-3-4(2); or

11 (ii) a parent of the child; or

12 (B) a comparable offense as described in clause (A) in any
 13 other state, territory, or country by a court of competent
 14 jurisdiction.

15 (2) A parent, guardian, or custodian of a child who is a child in
 16 need of services:

17 (A) has been convicted of:

18 (i) the murder (IC 35-42-1-1) or voluntary manslaughter
 19 (IC 35-42-1-3) of a victim who is a child described in
 20 IC 31-35-3-4(2)(B) or a parent of the child; or

21 (ii) a comparable offense described in item (i) in any other
 22 state, territory, or country; or

23 (B) has been convicted of:

24 (i) aiding, inducing, or causing another person;

25 (ii) attempting; or

26 (iii) conspiring with another person;

27 to commit an offense described in clause (A).

28 (3) A parent, guardian, or custodian of a child who is a child in
 29 need of services has been convicted of:

30 (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;

31 (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;

32 (C) aggravated battery (IC 35-42-2-1.5);

33 (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C
 34 felony;

35 (E) neglect of a dependent (IC 35-46-1-4) as a Class B felony;
 36 or

37 (F) a comparable offense described in clauses (A) through (E)
 38 in another state, territory, or country;

39 against a child described in IC 31-35-3-4(2)(B).

40 (4) The parental rights of a parent with respect to a biological or
 41 adoptive sibling of a child who is a child in need of services have
 42 been involuntarily terminated by a court under:

43 (A) IC 31-35-2 (involuntary termination involving a
 44 delinquent child or a child in need of services);

45 (B) IC 31-35-3 (involuntary termination involving an
 46 individual convicted of a criminal offense); or

- 1 (C) any comparable law described in clause (A) or (B) in any
 2 other state, territory, or country.
- 3 (5) The child is an abandoned infant, provided that the court:
 4 (A) has appointed a guardian ad litem or court appointed
 5 special advocate for the child; and
 6 (B) after receiving a written report and recommendation from
 7 the guardian ad litem or court appointed special advocate, and
 8 after a hearing, finds that reasonable efforts to locate the
 9 child's parents or reunify the child's family would not be in the
 10 best interests of the child. **However, there is a rebuttable**
 11 **presumption that it is not in the best interests of the child**
 12 **to locate the child's parent or reunify the child's family if**
 13 **the child was left with an emergency medical services**
 14 **provider who took custody of the child under**
 15 **IC 31-34-2.5."**
- 16 Page 3, line 20, strike "subsection" and insert "**subsections**".
- 17 Page 3, line 20, delete "." and insert "**and (d)**".
- 18 Page 3, strike line 24.
- 19 Page 3, line 25, strike "(3)" and insert "**(2)**".
- 20 Page 3, line 39, strike "(4)" and insert "**(3)**".
- 21 Page 4, line 2, strike "(5)" and insert "**(4)**".
- 22 Page 4, between lines 4 and 5, begin a new line block indented and
 23 insert:
 24 "**(5) Any emergency medical services provider who has taken**
 25 **custody of an abandoned infant under IC 31-34-2.5."**
- 26 Page 4, line 6, delete "The" and insert "**At least ten (10) days**
 27 **before a hearing on a petition or motion under this chapter, the**".
- 28 Page 4, line 7, delete "persons listed in subsection (c)" and insert
 29 "**child's foster parent**".
- 30 Page 4, line 11, after "(c)" insert "**or (d)**".
- 31 Page 4, line 15, after "(c)" insert "**or (d)**".
- 32 Page 4, line 17, delete "subsection" and insert "**subsections**".
- 33 Page 4, line 17, after "(c)" insert "**and (d)**".
- 34 Page 4, line 21, delete "persons listed in" and insert "**foster parent**".
- 35 Page 4, line 22, delete "subsection (c)".
- 36 Page 4, line 22, delete "persons" and insert "**foster parent has**".
- 37 Page 4, line 23, delete "have".
- 38 Page 4, line 25, delete "all the persons listed under subsection (c)
 39 appear" and insert "**the child's foster parent appears**".
- 40 Page 4, line 27, after "(c)(5)" insert "**or subsection (d)**".
- 41 Page 4, after line 30, begin a new paragraph and insert:
 42 "SECTION 10. IC 35-46-1-4, AS AMENDED BY P.L.197-1999,
 43 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2000]: Sec. 4. (a) A person having the care of a dependent,
 45 whether assumed voluntarily or because of a legal obligation, who
 46 knowingly or intentionally:



1 (1) places the dependent in a situation that endangers the
 2 dependent's life or health;
 3 (2) abandons or cruelly confines the dependent;
 4 (3) deprives the dependent of necessary support; or
 5 (4) deprives the dependent of education as required by law;
 6 commits neglect of a dependent, a Class D felony.
 7 (b) However, the offense is:
 8 (1) a Class C felony if it is committed under subsection (a)(1),
 9 (a)(2), or (a)(3) and results in bodily injury;
 10 (2) a Class B felony if it is committed under subsection (a)(1),
 11 (a)(2), or (a)(3) and results in serious bodily injury; and
 12 (3) a Class C felony if it is committed under subsection (a)(2) and
 13 consists of cruel or unusual confinement or abandonment.
 14 (c) It is a defense **to a prosecution based on an alleged act under**
 15 **this section** that:
 16 (1) the accused person **left a dependent child who was, at the**
 17 **time the alleged act occurred, not more than thirty (30) days**
 18 **of age with an emergency medical provider who took custody**
 19 **of the child under IC 31-34-2.5 when:**
 20 (A) **the prosecution is based solely on the alleged act of**
 21 **leaving the child with the emergency medical services**
 22 **provider; and**
 23 (B) **the alleged act did not result in bodily injury or serious**
 24 **bodily injury to the child; or**
 25 (2) **the accused person**, in the legitimate practice of his religious
 26 belief, provided treatment by spiritual means through prayer, in
 27 lieu of medical care, to his dependent.
 28 (d) Except for property transferred or received:
 29 (1) under a court order made in connection with a proceeding
 30 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
 31 or IC 31-6-5 before their repeal); or
 32 (2) under IC 35-46-1-9(b);
 33 a person who transfers or receives any property in consideration for the
 34 termination of the care, custody, or control of a person's dependent
 35 child commits child selling, a Class D felony."
 36 Renumber all SECTIONS consecutively.
 (Reference is to ESB 330 as printed February 18, 2000.)

Representative Klinker

Adopted	Rejected
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COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 330, begs leave to report that said bill has been amended as directed.

Representative Klinker